

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Final Official Action, the Examiner argues that the Information Disclosure Statement (IDS) filed on August 30, 2006 fails to comply with 37 C.F.R. § 1.98(a)(2). The Examiner then lists the requirements of 37 C.F.R. § 1.98(a)(2) without specifically mentioning how the IDS fails to comply. Furthermore, the Examiner previously indicated the same references as being considered in the Office Action of June 26, 2008 (by not lining through any of the references and indicating “All References Considered Except Where Lined Through. /J.O/”). Thus, Applicant respectfully requests that the references cited in the IDS of August 30, 2009 be indicated as considered in the next official communication or that specific reasoning for denying such consideration be made on the record.

In the Official Action, the Examiner objects to claims 17 and 20. With regard to claim 17, the Examiner argues that the same does not depend from any other claim. In response, claim 17 has been amended to depend from claim 29. With regard to claim 20, the Examiner argues that the same depends from claim 15, which has been canceled. In response, claim 20 has been amended to depend from claim 29.

Accordingly, it is respectfully requested that the objection to claims 17 and 20 be withdrawn.

In the Official Action, the Examiner rejects claims 16-26 and 29 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2005/0081329 to Tsai (hereinafter “Tsai”) in view of U.S. Patent No. 4,821,369 to Daniels (hereinafter “Daniels”). Additionally, the Examiner rejects claims 27 and 28 under 35 U.S.C.

§ 103(a) as being unpatentable over Tsai and Daniels and further in view of U.S. Patent No. 4,667,366 to Melara (hereinafter “Melara”).

In response, Applicants respectfully traverse the Examiner’s rejections under 35 U.S.C. § 103(a) for at least the reasons set forth below.

In the Final Official Action, the Examiner argues that Tsai does not disclose the means for axially and rotatably locking the tubular element. However, the Examiner argues that “it would have been an obvious design choice to utilize annular protrusions, annular ridges, two-semi-cylindrical portions and flat portions to lock the tubular element and seat, as Applicant has not disclosed that it solves any stated problem of the prior art.”

Firstly, the courts (In re Ruff, 256 F.2d 590 (CCPA 1958)) have long held that in order for the Examiner to assert that a modification is a design choice, the Examiner first must establish that there are two design choices and that the choices are known functional or mechanical equivalents. The Examiner fails to establish either. Specifically, the Tsai reference does not even contemplate the use of a tubular element, let alone the need to lock it both axially and rotatably with regard to the seat (which Tsai also does not disclose). Thus, the references do not disclose a related structure or even the need for a related structure that is functionally equivalent or is an alternative design choice. Additionally, one of ordinary skill in the art would not recognize, at the time of the invention, that the supporting body/tubular element with features for locking the tubular element relative to the supporting body (and through seat thereon) axially and rotatably and the one-piece design of Tsai were functionally equivalent or that they were alternative design choices at least for the reasons provided above.

Secondly, use of the two-piece supporting body/tubular element recited in claim 29 over the one-piece support of Tsai results at least in the advantages of allowing

movement of the tubular element (e.g., 6) coaxially into the seat (5) without escaping from it, thereby not requiring any additional retaining elements for locking the tubular element either axially or for rotation.

Thus, neither Tsai nor Daniels discloses (1) a body having a through seat, (2) a tubular element that is driven through the seat and (3) means for axially and rotatably locking the tubular element in the seat with the use of two annular ridges, an annular protrusion and two flat surfaces on the annular protrusion. Applicants submit that the same are not obvious design choices and result in advantages not disclosed or even contemplated by the prior art.

With regard to the rejection of claims 16-26 and 29 under 35 U.S.C. § 103(a), independent claim 29 is not rendered obvious by the cited references because neither the Tsai patent application nor the Daniels patent, whether taken alone or in combination, teach or suggest a self-orienting caster having the features discussed above and recited in independent claim 29. Accordingly, claim 29 patentably distinguishes over the prior art and is allowable. Claims 17-26 and 29, being dependent upon claim 29, are thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 16-26 and 29 under 35 U.S.C. § 103(a).

With regard to the rejection of claims 27 and 28 under 35 U.S.C. § 103(a), since independent claim 29 patentably distinguishes over the prior art and is allowable, claims 27 and 28 are at least allowable therewith as depending from an allowable base claim. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 27 and 28 under 35 U.S.C. § 103(a).

Furthermore, the Applicant respectfully submits that at least claim 20 patentably distinguishes over the cited references independently of its base claim. In this

regard, the Applicant respectfully submits that the cited references do not teach or suggest a seat at least for the same reasons as set forth above with regard to claim 29. Furthermore, the cited references do not disclose or suggest the seat being formed in two pieces to have an oval shape and flat surfaces in the orientation recited in claim 20. The Examiner does not indicate in the Final Official Action where such features are shown in the references.

Lastly, claim 21 has been amended to be consistent with its base claim (29) and intervening claim (20).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,

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